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TIME 2:22 P M

MAY 17 2011

IN THE SUPERIOR COURT
MOHAVE COUNTY, STATE OF ARIZONA

VIRLYNN TINNELL
CLERK SUPERIOR COURT
CM

Honorable Steven F. Conn
Division: III Courtroom: A
Court Reporter: Jim Glover

Virlynn Tinnell, Clerk of Superior Court
By: Christine Murphy, Deputy Clerk
Hearing Date: June 17, 2011

STATE OF ARIZONA,

Plaintiff,

vs.

JOHN CHARLES MCCLUSKEY,

Defendant.

CASE NO: CR-2010-00823

JURY TRIAL-DAY FOUR

START: 9:33 A.M.

APPEARANCES: Victoria Stazio, Deputy County Attorney; John Pecchia and Jason Steffen, Attorney for and with the Defendant.

All parties are present, including the Jury.

Ms. Stazio presents closing arguments.

Mr. Pecchia presents closing arguments.

Ms. Stazio presents final closing arguments.

Final jury instructions are read to the Jury.

Juror 236267 is determined as the 2nd alternate based upon a prior Stipulation of the parties.

Bob Lawless is duly sworn as Bailiff.

The Jury is admonished and excused at 10:46 a.m., to deliberate.

Now, outside the presence of the Jury:

The Court makes note of a typo found on one of the jury instructions; the Court will make that correction as soon as possible before the instructions go to the Jury.

Discussion ensues as to an aggravating factor; that aggravating factor being "*the presence of an accomplice*" the State will be pursuing if the Defendant is found guilty.

The Court stands in recess at 10:53 a.m.



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The Court reconvenes at 12:50 p.m.; all parties heretofore mentioned are present, including the Jury.

The Bailiff informs the Court that the Jury has reached their verdicts.

The verdict forms are handed to the Court. The clerk is directed to read and record the verdicts, omitting the caption. They read as follows:

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 1, Escape in the Second Degree**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 2, Kidnapping** [REDACTED]. Further, that it was a dangerous offense; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 2, Kidnapping** [REDACTED]. Further, that it was a dangerous offense; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 4, Armed Robbery** [REDACTED] signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 5, armed Robbery** [REDACTED] signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 6, Aggravated Assault** [REDACTED] signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 7, Aggravated Assault** [REDACTED] signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant **guilty Count 8, Misconduct Involving Weapons**; signed the Foreperson.

Mr. Steffen requests that the Jury be polled.

The Court polls the Jury; all twelve jurors answered yes to "is such your verdict?"

The Court proceeds with Hearing as to the aggravating factor.

Ms. Stazio waives opening statements.

Mr. Steffen waives opening statements.

No further evidence will be presented by either party; both parties will rely solely on the evidence previously admitted.

Ms. Stazio presents closing argument.

Mr. Steffen presents closing argument.

The Court reviews the forms of verdict as to the aggravating factor with the Jury.

The Jury is admonished and excused at 1:02 p.m., to deliberate.

Now, outside the presence of the Jury:

IT IS ORDERED setting this matter for **Judgment and Sentence on Friday, July 15, 2011 at 10:00 a.m.**

IT IS ORDERED directing the Probation Department to prepare a written Pre-Sentence Investigation and Report in this matter.

Mr. Steffen advises the Court that the Defendant wishes to be sentenced today; the State does not oppose.

Discussion ensues.

The Court will proceed with sentencing today at 3:00 p.m.

IT IS ORDERED pursuant to Rule 7.2c; that the Defendant shall be held in custody without bond pending further proceedings in this matter.

IT IS ORDERED vacating the prior order setting Judgment and Sentence on July 15, 2011.

The Court recesses at 1:09 p.m.

The Court reconvenes at 1:25 p.m.; all parties heretofore mentioned are present, including the Jury.

The Bailiff informs the Court that the Jury has reached their verdicts.

The verdict forms are handed to the Court. The clerk is directed to read and record the verdicts, omitting the caption. They read as follows:

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 1 with the presence of an accomplice**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 2 with the presence of an accomplice**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 3 with the presence of an accomplice**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 4 with the presence of an accomplice**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 5 with the presence of an accomplice**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 6 with the presence of an accomplice**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 7 with the presence of an accomplice**; signed the Foreperson.

"We, the Jury duly empanelled and sworn in the above-entitled action, upon our oaths, do find: The Defendant committed **Count 8 with the presence of an accomplice**; signed the Foreperson.

Mr. Pecchia requests the Jury be polled.

The Court polls the Jury; all twelve jurors answered yes to "is such your verdict?"

The Court thanks the Jury and excuses them at 1:29 p.m.

Now, outside the presence of the Jury:

Judgment and Sentencing will begin at 3:00 p.m. today.

The Court stands in recess at 1:31 p.m.

cc:

MOHAVE COUNTY ATTORNEY*

Victoria Stazio

MOHAVE COUNTY PUBLIC DEFENDER*

John Pecchia and Jason Steffen

THERESA M. DUNCAN*

Federal Counsel

Informational Copy

MOHAVE COUNTY JAIL*

HONORABLE STEVEN F. CONN*

Division III